

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Communications Assistance for Law	)	ET Docket No. 04-295
Enforcement Act and Broadband Access and	)	
Services	)	RM-10865

**REPLY COMMENTS OF  
HOFSTRA UNIVERSITY**

Hofstra University respectfully submits these reply comments in response to the Further Notice of Proposed Rulemaking adopted in the above-captioned docket.<sup>1</sup> Hofstra University supports the comments filed by the Higher Education Coalition and submits this reply to amplify several points based on its own experience and circumstances.

Hofstra University urges the FCC to clarify that the private networks operated by colleges, universities, and research institutions are exempt from CALEA. In addition, Hofstra University's experience of lawful compliance with law enforcement surveillance requests demonstrates that there is no need to impose CALEA requirements on higher education networks. Finally, applying CALEA to Hofstra University's broadband network would impose significant costs that would inflate tuition prices and hinder Hofstra University's ability to facilitate students and the community as a whole.

---

<sup>1</sup> *Communications Assistance for Law Enforcement Act and Broadband Access and Services*, First Report and Order and Further Notice of Proposed Rulemaking, ET Docket No. 04-295, FCC 05-153 (rel. Sept. 23, 2005) ("*Order*").

## Discussion

### 1. **The FCC Should Clarify That Higher Education Networks Are Exempt from CALEA.**

Broadband networks operated by higher education and research institutions are not subject to CALEA because the statute expressly exempts, “equipment, facilities, or services that support the transport or switching of communications for private networks.” 47 U.S.C. § 1002(b)(2)(B). Although the Commission acknowledged in the *Order* that private educational networks are exempt from CALEA, it introduced ambiguity by stating: “To the extent . . . that [such] private networks are interconnected with a public network, either the PSTN or the Internet, providers of the facilities that support the connection of the private network to a public network are subject to CALEA . . . .” *Order* at ¶ 36, n.100. Hofstra University provides Internet access, but does not make its network facilities generally available to the public and does not provide these services to make a profit. Hofstra University is a private, not for profit educational institution and provides network services to University constituents for the purpose of teaching and learning, research and conducting University business.

The Commission should clarify that only commercial entities are covered by the language in footnote 100, as evidenced by the clear statutory exemption of private network operators. Furthermore, the Commission should exercise its discretionary authority under Section 102(8)(C)(ii) of CALEA to exempt higher education and research institutions from

compliance with the forthcoming requirements. Such an exemption is necessary to support congressional intent and to avoid imposing unnecessary burdens on colleges, universities, and research institutions.

**2. Hofstra University's Experience of Lawful Compliance with Law Enforcement Surveillance Requests Demonstrates that there is no Need to Impose CALEA Requirements on Higher Education Networks.**

Hofstra University's experience of lawful compliance with law enforcement surveillance requests demonstrates that existing procedures are more than sufficient, especially in light of both the infrequency of such requests and Hofstra University's history of full cooperation. Hofstra University rarely receives surveillance requests from local and federal agencies. Hofstra University complies with any requests and inquiries that are received from local and federal agencies by responding and disclosing the requested information to law enforcement agencies diligently. As such, imposing burdensome new assistance-capability requirements under CALEA is unnecessary to serve the interests of law enforcement.

**3. A Broad Application of CALEA Would Impose Significant Burdens on Hofstra University and Divert Funds from Its Critical Educational Mission.**

As stated above, Hofstra University believes that CALEA does not apply to higher education under the plain language of the statute and under the most reasonable reading of the *Order*. If the Commission were to apply the language in footnote 100 of the *Order* broadly and conclude that higher education networks such as Hofstra University must comply with some or all

assistance capability requirements, such a ruling would impose significant and unwarranted burdens.

If the *Order* were interpreted by DOJ or the FCC to require interception of communications by particular users at points *within* the Institution's network, Hofstra University would be substantially burdened. Hofstra University would incur heavy costs that are involved in replacing equipment and redesigning the University's existing network to be compliant with CALEA. In addition, Hofstra University might have to hire additional staff to maintain and manage the additional equipment and process, which is not economically feasible. This would likely result in cuts in other programs and increases in tuition. The Chronicle on Higher Education recently noted that tuition at private and public colleges has rapidly increased each year, resulting in an increase in the number of student loans.<sup>2</sup> Imposing the requirements set by CALEA on higher education institutions would magnify the already existing problem of tuition increases and would ultimately hurt students attending higher education institutions and society as a whole.

In conclusion, if the FCC were to apply CALEA broadly to higher education networks in a manner that is contrary to the text of the statute, such a ruling would impose significant burdens that far outweigh its supposed benefits. Accordingly, the Commission should exempt higher

---

<sup>2</sup> William Strauss and Neil Howe, *The High Cost of College: an Increasingly Hard Sell*, The Chronicle Review, at page 24 (October 21, 2005).

education institutions and research networks from CALEA, if it considers them subject to the assistance-capability requirements.

### **Conclusion**

Hofstra University respectfully requests that the Commission clarify that private networks operated by higher education and research institutions are not subject to CALEA, or alternatively grant an exemption under Section 102(8)(C)(ii) of CALEA.

Respectfully submitted,

s\\_\_\_\_\_

Technology

Robert W. Juckiewicz  
Vice President for Information

Hofstra University  
101 Hofstra University  
Hempstead, NY 11549-1280

December 20, 2005